

Response Under 37 CFR 1.116
Expedited Procedure
Examining Group 3600
Application No. 09/890,669
Paper Dated: November 16, 2004
In Reply to USPTO Correspondence of August 17, 2004
Attorney Docket No. 1918-010967

REMARKS

Claims 24-28 and 30-36 are currently pending in this application. Claim 46 has been allowed. The Examiner has indicated that claims 31-41 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. This amendment amends claim 24. Because the amendment to claim 24 is of a formal nature only, entry of the amendment is respectfully requested.

In the previous Amendment dated April 30, 2004, claim 29 (which the Examiner indicated contained allowable subject matter) was cancelled and the limitations found in claim 29 were included into independent claim 24, which should have placed the application in condition for allowance. However, the Examiner asserts that claim 29 contains a recitation of the intended use of the invention that does not result in a structural difference between the claimed invention and the prior art and, therefore, does not patentably distinguish the claimed invention from the prior art. Furthermore, the Examiner asserts that when a claim is drawn to a process of making, the intended use must result in a manipulated difference as compared to the prior art. Applicant respectfully disagrees with the Examiner's assertions. All of the claims are directed to a device and not a process, and the limitations following the term "wherein" in claim 24 are structural limitations. Therefore, claims 24-28 and 30-46 are believed to be distinguishable over the cited prior art as discussed below.

The Examiner has rejected claim 24 under 35 U.S.C. § 112, second paragraph, for indefiniteness. The Examiner asserts that the term "certain" renders the claim indefinite. In response, the term "certain" has been replaced with the phrase "one or more." Support for the amendment to claim 24 can be found, for example, on page 3, lines 8-15 of the present specification. In view of the foregoing, withdrawal of the rejection and entry of the amendment to claim 24 is respectfully requested.

The present invention, as claimed in amended independent claim 24, is directed to a firearm device comprising a firearm, a safety means for impeding an unauthorized person to fire the firearm, and an information storage means for recording and storing at least one aspect of a group consisting of an image in the direction in which a shot is fired, and a sound at about the time when a shot is fired. The safety means further comprises

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an information carrier and/or a gathering means and a processing means for processing information received from the information carrier and/or gathering means and allowing firing of the firearm to take place only if the information so received complies with one or more requirements. None of the prior art teaches or suggests a firearm having a safety means that includes an information carrier and/or gathering means, and a processing means as in the claimed invention.

The Examiner has rejected claims 24, 25 and 30 under 35 U.S.C. § 103(a) for obviousness over U.S. Patent No. 6,477,801 to O'dwyer in view of U.S. Patent No. 4,835,621 to Black. The Examiner asserts that O'dwyer teaches a firearm 10 with a safety means for impeding an unauthorized person to fire the firearm. The Examiner also asserts that Black teaches an information storage means 10 for recording at least one aspect of the group consisting of an image in the direction in which a shot is fired, and inherently storing a sound at about the time when a shot is fired. Therefore, the Examiner contends that it would have been obvious to one of ordinary skill in the art to mount the information storage means (video camera) of Black into the firearm of O'dwyer to record and monitor the shooting action along with a safety means. Furthermore, the Examiner asserts that the wherein clause in claim 24 is essentially a method limitation or statement of intended use that does not serve to patentably distinguish the claimed structure over the cited references. Applicant respectfully disagrees with the Examiner's assertions.

The O'dwyer patent is directed to a system that provides security measures for electronically operating munitions and firearms, such as pistols and the like. Electronic controls may be armed or disarmed electronically and provided with encoding means which arms electronic controls which enable firing of the secured weapon upon receiving an authorization code. Such a code may be unique to an individual, provided in the form of a swipe card or the like carried by the authorized personnel. Alternatively the code may be biometric data which retains a lifelong distinctive identity of the authorized person. See the Abstract. The biometric data can be in the form of a personalized transducer secured on the body of the authorized personnel (column 2, lines 25-29). The O'dwyer patent does not disclose a safety means having a gathering means or a processing means for processing the

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information received from either the information carrier and/or gathering means as claimed in independent claim 24.

The Black patent is directed to a video camera recording device incorporated into a gun-like mounting structure which can be raised to the shoulder and sighted at an object in the same way that a gun is usually raised to the shoulder and aimed (column 1, lines 5-10).

None of the cited prior art references teaches or suggests a safety means having both an information carrier and/or gathering means and a processing means as claimed in independent claim 24. The information carrier means, the information gathering means and the information processing means are structural limitations that further limit the safety means and, therefore, cannot be considered statements of intended use. In view of the above, reconsideration and withdrawal of the rejections of independent claim 24 and dependent claims 25 and 30 are respectfully requested.

Claims 26 and 27 stand rejected under 35 U.S.C. § 103(a) for obviousness over the O'dwyer patent and the Black patent in view of U.S. Patent No. 5,062,232 to Eppler. The Examiner relies on Eppler for the asserted teaching of a firearm that includes a laser system for generating a laser beam to ignite a charge to fire a projectile and for an electronic system that controls firing of the firearm. Claims 26 and 27 depend either directly or indirectly from independent claim 24 and are thus allowable over the teachings of the O'dwyer patent and the Black patent for the reasons discussed above.

Claim 28 stands rejected under 35 U.S.C. § 103(a) for obviousness over the O'dwyer patent and the Black patent in view of International Application WO-A-98 55 817 (hereafter "D1"). The Examiner relies on D1 for the asserted teaching of a plurality of barrels, wherein the barrels are preloaded with projectiles and charges. Claim 28 depends indirectly from independent claim 24 and is thus allowable over the teaching of the O'dwyer patent and the Black patent for the reasons discussed above.

Claims 42-45 stand rejected under 35 U.S.C. § 103(a) for obviousness over the O'dwyer and the Black patent in view of U.S. Patent No. 6,539,661 to Hope. The Examiner relies on Hope for the asserted teaching of a digital camera for recording images. Claims 42-

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45 depend either directly or indirectly from independent claim 24 and are thus allowable over the teachings of the O'dwyer patent and the Black patent for the reasons discussed above.

CONCLUSION

In view of the foregoing, the Applicant believes that claims 24-28 and 30-45 are patentable over the prior art of record and are in condition for allowance. Claim 46 has been allowed. Entry of the amendment to claim 24 and withdrawal of the Examiner's rejections and allowance of claims 24-28 and 30-46 are respectfully requested.

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.

By *Darrell E. Williams*
Darrell E. Williams
Registration No. 45,222
Attorney for Applicant
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818
Telephone: 412-471-8815
Facsimile: 412-471-4094
E-mail: webblaw@webblaw.com